

AMENDED IN ASSEMBLY APRIL 29, 2003
AMENDED IN ASSEMBLY MARCH 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 309

Introduced by Assembly Member Chu
(Coauthors: Assembly Members Chan, Dymally, Goldberg,
Hancock, Leno, Longville, and Vargas)
(Coauthor: Senator Escutia)
(Coauthors: Senators Escutia, Kuehl, and Romero)

February 7, 2003

An act to amend Section 1632 of the Civil Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 309, as amended, Chu. Contracts: foreign languages.

Existing law requires a person in a trade or business who negotiates specified contracts or agreements primarily in the Spanish language to deliver to the other party prior to execution thereof, a Spanish language translation of the contract or agreement, except as specified. Failure to comply entitles the aggrieved party to rescind the contract or agreement.

This bill would extend these provisions to ~~any~~ *the foreign language languages of Chinese, Tagalog, Vietnamese, and Korean*, in addition to the Spanish language. *The bill would also set forth the findings and declarations of the Legislature in this regard.*

This bill would become operative only if SB 146 of the 2003–04 Regular Session is enacted, and is effective on or before January 1, 2004.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1632 of the Civil Code is amended to
2 read:

3 1632. (a) *The Legislature hereby finds and declares all of the*
4 *following:*

5 (1) *This section was enacted in 1976 to increase consumer*
6 *information and protections for the state's sizeable and growing*
7 *Spanish-speaking population.*

8 (2) *Since 1976, the state's population has become increasingly*
9 *diverse and the number of Californians who speak languages other*
10 *than English as their primary language at home has increased*
11 *dramatically.*

12 (3) *According to data from the United States Census of 2000,*
13 *of the more than 12 million Californians who speak a language*
14 *other than English in the home, approximately 4.3 million speak*
15 *an Asian or another language other than Spanish. The top five*
16 *languages other than English most widely spoken by Californians*
17 *in their homes are Spanish, Chinese, Tagalog, Vietnamese, and*
18 *Korean. Together, these languages are spoken by approximately 83*
19 *percent of all Californians who speak a language other than*
20 *English in their homes.*

21 (b) Any person engaged in a trade or business who negotiates
22 primarily in ~~a language other than English~~ Spanish, Chinese,
23 Tagalog, Vietnamese, or Korean, orally or in writing, in the course
24 of entering into any of the following, shall deliver to the other party
25 to the contract or agreement and prior to the execution thereof, an
26 unexecuted translation of the contract or agreement, in the
27 language in which the contract or agreement was negotiated:

28 (1) A contract or agreement subject to the provisions of Title 2
29 (commencing with Section 1801) of, and Chapter 2b
30 (commencing with Section 2981) and Chapter 2d (commencing
31 with Section 2985.7) of Title 14 of, Part 4 of Division 3.

32 (2) A loan or extension of credit secured other than by real
33 property, or unsecured, for use primarily for personal, family or
34 household purposes.

(3) A lease, sublease, rental contract or agreement, or other term of tenancy contract or agreement, for a period of longer than one month, covering a dwelling, an apartment, or mobilehome, or other dwelling unit normally occupied as a residence.

(4) Notwithstanding paragraph (2), a loan or extension of credit for use primarily for personal, family or household purposes where the loan or extension of credit is subject to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with Section 18000), or Division 9 (commencing with Section 22000) of the Financial Code.

(5) A contract or agreement, containing a statement of fees or charges, entered into for the purpose of obtaining legal services, when the person who is engaged in business is currently licensed to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

~~(b)~~

(c) Notwithstanding subdivision ~~(a)~~ (b), for a loan subject to this part and to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, the delivery of a translation of the statement to the borrower required by Section 10240 of the Business and Professions Code ~~in the language~~ *any of the languages specified in subdivision (b)* in which the contract or agreement was negotiated, is in compliance with subdivision ~~(a)~~ (b).

~~(c)~~

(d) At the time and place where a lease, sublease, or rental contract or agreement described in subdivision ~~(a)~~ (b) is executed, notice ~~in the language~~ *any of the languages specified in subdivision (b)* in which the contract or agreement was negotiated shall be provided to the lessee or tenant.

~~(d)~~

(e) Provision by a supervised financial organization of a translation of the disclosures required by Regulation M or Regulation Z, and, if applicable, Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code ~~in the language~~ *any of the languages specified in subdivision (b)* in which the contract or agreement was negotiated, prior to the execution of the contract or agreement, shall also be deemed compliance with the requirements of

1 subdivision ~~(a)~~ (b) with regard to the original contract or
2 agreement.

3 (1) “Regulation M” and “Regulation Z” mean any rule,
4 regulation, or interpretation promulgated by the Board of
5 Governors of the Federal Reserve System and any interpretation
6 or approval issued by an official or employee duly authorized by
7 the board to issue interpretations or approvals dealing with,
8 respectively, consumer leasing or consumer lending, pursuant to
9 the Federal Truth in Lending Act, as amended (15 U.S.C. Sec.
10 1601 et seq.).

11 (2) As used in this section, “supervised financial organization”
12 means a bank, savings association, as defined in Section 5102 of
13 the Financial Code, credit union, or holding company, affiliate, or
14 subsidiary thereof, or any person subject to Article 7 (commencing
15 with Section 10240) of Chapter 3 of Part 1 of Division 4 of the
16 Business and Professions Code, or Division 7 (commencing with
17 Section 18000) or Division 9 (commencing with Section 22000)
18 of the Financial Code.

19 ~~(e)~~

20 (f) At the time and place where a contract or agreement
21 described in paragraph (1) or (2) of subdivision ~~(a)~~ (b) is executed,
22 a notice in ~~the language~~ *any of the languages specified in*
23 *subdivision (b)* in which the contract or agreement was negotiated
24 shall be conspicuously displayed to the effect that the person
25 described in subdivision ~~(a)~~ (b) is required to provide an
26 unexecuted contract or agreement in the language in which the
27 contract or agreement was negotiated, or a translation of the
28 disclosures required by law in the language in which the contract
29 or agreement was negotiated, as the case may be. If a person
30 described in subdivision ~~(a)~~ (b) does business at more than one
31 location or branch, the requirements of this section shall apply
32 only with respect to the location or branch at which the language
33 in which the contract or agreement was negotiated is used.

34 ~~(f)~~

35 (g) The term “contract” or “agreement,” as used in this
36 section, means the document creating the rights and obligations of
37 the parties and includes any subsequent document making
38 substantial changes in the rights and obligations of the parties. The
39 term “contract” or “agreement” does not include any subsequent
40 documents authorized or contemplated by the original document



such as periodic statements, sales slips or invoices representing purchases made pursuant to a credit card agreement, a retail installment contract or account or other revolving sales or loan account, memoranda of purchases in an add-on sale, or refinancing of a purchase as provided by, or pursuant to, the original document.

The term “contract” or “agreement” does not include a home improvement contract as defined in Sections 7151.2 and 7159 of the Business and Professions Code, nor does it include plans, specifications, description of work to be done and materials to be used, or collateral security taken or to be taken for the retail buyer’s obligation contained in a contract for the installation of goods by a contractor licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, if the home improvement contract or installation contract is otherwise a part of a contract described in subdivision ~~(a)~~ (b).

Matters ordinarily incorporated by reference in contracts or agreements as described in paragraph (3) of subdivision ~~(a)~~ (b), including, but not limited to, rules and regulations governing a tenancy and inventories of furnishings to be provided by the person described in subdivision ~~(a)~~ (b), are not included in the term “contract” or “agreement.”

~~(g)~~

(h) This section does not apply to any person engaged in a trade or business who negotiates primarily in a language other than English as described by subdivision ~~(a)~~ (b) if the party with whom he or she is negotiating is a buyer of goods or services, or receives a loan or extension of credit, or enters an agreement obligating himself or herself as a tenant, lessee, or sublessee, or similarly obligates himself or herself by contract or lease, and the party negotiates the terms of the contract, lease, or other obligation through his or her own interpreter.

As used in this subdivision, “his or her own interpreter” means a person, not a minor, able to speak fluently and read with full understanding both the English language and ~~the language~~ *any of the languages specified in subdivision (b)* in which the contract or agreement was negotiated, and who is not employed by, or whose service is made available through, the person engaged in the trade or business.

~~(h)~~

(i) The terms of the contract or agreement which is executed in the English language shall determine the rights and obligations of the parties. However, the translation of the contract or the disclosures required by subdivision ~~(d)~~ in the language *(e) in any of the languages specified in subdivision (b)* in which the contract or agreement was negotiated shall be admissible in evidence only to show that no contract was entered into because of a substantial difference in the material terms and conditions of the contract and the translation.

~~(i)~~

(j) Upon a failure to comply with the provisions of this section, the person aggrieved may rescind the contract or agreement in the manner provided by this chapter. When the contract for a consumer credit sale or consumer lease which has been sold and assigned to a financial institution is rescinded pursuant to this subdivision, the consumer shall make restitution to and have restitution made by the person with whom he or she made the contract, and shall give notice of rescission to the assignee. Notwithstanding that the contract was assigned without recourse, the assignment shall be deemed rescinded and the assignor shall promptly repurchase the contract from the assignee.

SEC. 2. This act shall become operative only if Senate Bill 146 of the 2003–04 Regular Session is enacted and becomes effective on or before January 1, 2004.